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REMARKS

Please cancel Claims 1-16 of the application without prejudice to the subject matter described therein and replace with new Claims 17-24. The Specification has been amended to correct typographical errors. No new matter has been added by the new claims or amendments to the Specification. Allowance of Claims 17-24 is respectfully requested.

New Claims

New Claims 17-24 find basis in the Specification as filed. Independent Claim 17 finds support in the Specification in the Examples, pages 5-8, and 18-23.

Applicants recognize that the Specification as filed does not contain a literal statement of a pallet free of syndiotactic polystyrene. It is understood that sufficient and adequate support in an application to comply with 35 U.S.C 112, first paragraph does not require literal support. (See *Ex parte Parks* 30 USPQ2d 1234, 1236 (1994)) Sufficient support is provided if the application as filed "would have conveyed to one having ordinary skill in the art that the [Applicant] had possession of the concept of what is claimed." (Id.) Therefore, a limitation found in a claim, wherein the limitation is not literally stated in the application as filed, can still find adequate support if the application conveys to one of ordinary skill in the art that the Applicants were in possession of the concept of what is claimed.

The Applicants contend that the Specification as filed provides support for the claim limitation of a pallet free of syndiotactic polystyrene as the Experimental section conveys to one of ordinary skill in the art the concept of a pallet free of syndiotactic polystyrene. The Applicants would like to bring to the Examiner's attention Sample 5 of the Experimental section on page 34 of the Specification as filed. Sample 5 contains the following components:

1. a poly(2,6-dimethyl-1,4-phenylene ether) (PPE);
2. high impact polystyrene (HIPS) available from Huntsman as grade 1897;

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3. polystyrene-polybutadiene-polystyrene copolymer (SBS) available from Shell Chemical Company as grade Kraton D1101-12; B&M Plastics as KD 1101-12;

4. phosphate flame retardant and non-styrenic additives.

Sample 5 was used to prepare a plastic pallet that was subjected to the UL 2335 protocol. The pallet prepared from Sample 5 illustrates a plastic pallet free of syndiotactic polystyrene as the only styrenic components were HIPS and SBS polymer, neither of which are syndiotactic polystyrene. It is well known that polystyrene can have one of two particular stereostructures, each of which has an affect on the polymer's properties. Polystyrene is generally produced from the polymerization of the monomer styrene. Atactic polystyrene is polystyrene containing a random distribution of the chiral centers of the resulting phenyl substituent bearing carbon atom of the polymer backbone. Atactic polystyrene is inexpensive to produce, often by the use of a free radical polymerization process. The random distribution results in an amorphous material without crystalline structure.

Syndiotactic polystyrene, on the other hand, cannot be produced by free radical polymerization as each chiral center along the polymer backbone must have the same stereochemistry (i.e., all of the phenyl substituent bearing carbons must have the same configuration). A different process is used to produce syndiotactic polystyrene, most notably metallocene catalysis vinyl polymerization. Such a process results in a crystalline material having a high melting temperature. The process to produce syndiotactic polystyrene is significantly more expensive than the process to produce atactic polystyrene.

The Applicants contend that the pallet prepared from Sample 5 of the Specification as filed fully supports the new claims containing the element "wherein the pallet is free of syndiotactic polystyrene". This is because one of ordinary skill in the art would have understood that the Experimental section of the application as filed would have conveyed that the Applicant had possession of the claims as provided the present Amendment. No syndiotactic polystyrene is used in Sample 5, and as such,

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no syndiotactic polystyrene was present in the pallet prepared from the Sample 5 material.


The Applicants put forth that the art fails to teach or suggest a plastic pallet comprising a polyphenylene ether resin, a high impact polystyrene, and at least one flame retardant in an amount sufficient to impart a degree of flame retardancy to the pallet to pass UL 2335 protocol for pallets; wherein the pallet meets or exceeds Underwriters Laboratory UL 2335 protocol for pallets, and wherein the pallet is free of syndiotactic polystyrene. Accordingly, the Applicants respectfully request entry of the Preliminary Amendment and allowance of Claims 17- 24.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862.

Respectfully submitted,

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